

CANVASSING KANSAS

An Update on Election News from Kansas Secretary of State Ron Thornburgh

March 2004

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2004 Election Season is Underway

It is already March, the third month in the 2004 presidential election year. Presidential politics dominate the news, and election officers at all levels in all parts of the nation are knee-deep in HAVA preparations. It is a good time to take a quick look at the upcoming election season.

Key Dates

April 6, 2004	City general election (where applicable)
June 10, 2004 at noon	Candidate filing deadline for primary election
August 2, 2004 at noon	Independent candidate petition filing deadline and judicial retention deadline
August 3, 2004	Primary election day
August 27, 2004	State canvass (tentative date)
November 2, 2004	General election day
November 30, 2004	State canvass (tentative date)
December 13, 2004	Presidential electors meet in Topeka
January 10, 2005	Term of office begins for most officers

No PPP

Although the presidential campaign season is in full swing and many states have held widely publicized caucuses and primaries, Kansas will not have a presidential preference primary in 2004. The last PPP in Kansas was in 1992; the primaries in 1996, 2000 and 2004 were canceled by the legislature for various reasons. In 2003, the legislature was grappling with severe budget shortfalls and chose to cancel the 2004 PPP instead of appropriating the \$1.75 million it would have taken to conduct the statewide primary.

The law remains on the books requiring a PPP in 2008 and every four years thereafter. Without a PPP, the political parties adopt their own procedures for choosing delegates to their national nominating conventions, which are held in late summer.

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CEO Election Mailings Being Sent by E-mail

Each election season the SOS office issues a series of mailings to county election officers containing information about issues, procedures, forms and materials needed to conduct the elections. In recent years, the mailings have been organized into a numbered series so everyone can tell if they have missed a mailing.

As part of our continuous attempt to increase efficiency through the use of electronic communication, we are beginning to send these official election mailings by e-mail. The first one to be e-mailed was 2004 Election Mailing #2, issued March 2.

The electronic mailings will usually contain attachments either in Microsoft Word or Microsoft Excel documents or PDF

documents that can be opened with Adobe Acrobat software. Sometimes the cover memo of the mailing will direct the recipient to the SOS web site at www.kssos.org to retrieve documents and forms.

We have sent various informal messages and updates by e-mail for several years now, but this is the first time the official election mailings have not been on paper. It is imperative that every county election officer receive all the information contained in the election mailings, so if anyone has trouble opening an attachment or finding a document on the web site, please notify the SOS office immediately at (785) 296-4561.

Voting System Security a Growing Issue

There is a growing concern among the voting public about voting system security. Computerization of election procedures during the past 15 years has led to the point where most of the votes are tabulated electronically. In Kansas, 84 out of 105 counties use electronic tabulation whether optical scan systems or DRE (direct recording electronic). Some of those expressing concern claim that the systems are not secure enough to prevent unauthorized access to the software and that the results of elections could be altered by either accident or malicious intent.

The issue first gained nationwide exposure in the first half of 2003 when a report was issued by a team of computer experts affiliated with Johns Hopkins University. They had performed an analysis of DRE voting equipment and alleged that they discovered flaws that could make the system susceptible to manipulation.

Much of the debate on this issue takes place on the Internet. Some individuals have established web sites to keep track of the latest developments, studies, charges and countercharges. The SOS office receives regular and frequent contacts from voters in Kansas and elsewhere urging increased security measures and decertification and discontinuation of DRE voting equipment. Further, many have called for the addition of a voter verified paper trail, which would mean a record of a voter's actions on a DRE would be printed for the voter's review before the voter leaves the polling place to ensure that the votes were recorded accurately. Some states have taken steps toward adopting paper trail requirements, but they represent a significant alteration of the voting systems and substantial cost.

As always, there are at least two sides to the issue. The National Association of Secretaries of State (NASS) issued a statement that voting systems employ multiple layers of security and are administered by multiple individuals, making manipulation difficult. In order for a conspiracy to occur it would take a large number of individuals to alter the outcome of an election. Some members of the National Association of State Election Directors have questioned some of the conclusions in the Johns Hopkins study and have pointed out the rigorous testing procedures used in certifying voting systems. Many in the disabilities community and the League of Women Voters disagree with the critics of electronic voting, citing the fact that such systems are subjected to established testing procedures and the systems have already been used successfully in many elections.

Software security in computerized vote tabulation systems will continue to be an important consideration during the next several years as HAVA requires the purchase of new voting equipment to allow unassisted voting by individuals with disabilities. Hundreds of millions of dollars will be spent nationwide on voting equipment in the next three years. Each system is tested according to the following criteria:

It must meet voting system standards issued in 2002 by the Federal Election Commission. It must pass qualification testing by an independent testing authority certified by the National Association of State Election Directors. Under the Help America Vote Act of 2002, voting equipment must meet standards to be adopted by the National Institute of Standards and Technology (NIST). NIST has not yet issued any standards. It must be certified by the chief state election authority in each state before being purchased or used in an official election.

To date, none of these entities have had time to incorporate the security issues from the recent debate into their procedures. Voting equipment manufacturers have not had time to address the concerns in their hardware and software upgrades being developed for the 2004 election and for HAVA.

Secretary of State Ron Thornburgh intends to address the security issue as he prepares for the purchase of new HAVA-compliant voting equipment in the next eighteen months. To that end, Thornburgh appointed in December 2003, a voting system

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RON THORNBURGH

Kansas Secretary of State

Dear Friends:

Citizen confidence in the security of our voting system is their endorsement of our American democracy. The security of electronic voting systems has become a growing concern among some Kansas citizens due to recent scrutiny of electronic systems. Some believe the use of electronic voting machines will be dangerous to the security of the voting process, either through manipulation of the system or accidental loss of votes. Our job is to ensure that every Kansan knows their vote counts.

Currently, this issue directly affects Butler, Johnson, Sedgwick, and Lyon counties because they use electronic voting systems. However, by the 2006 election cycle, every county in Kansas must be educated and prepared to implement a secure electronic voting system.

As election officials it is important for us to reassure Kansans that electronic voting machines have successfully been in place in Kansas for several years. We need to ensure that the public understands the electronic voting machines have been thoroughly tested, are secure, and meet the certification requirements for use in Kansas. Voting machines are only one cog in the voting process and while security of the machines is important, the overall security of the system and process is our priority.

Even so, we are taking more security measures. As of December 2003, I appointed an eleven member task force to review voting security. This task force is made up of election administrators from Kansas counties and my staff. The purpose of the task force is to recommend a voting security policy that will be adopted at the state level and recommended to all 105 counties in Kansas as part of our voting standards.

I ask for your support as we move forward to create an even more secure and sound voting process.

Sincerely,

A handwritten signature in black ink that reads "Ron".

RON THORNBURGH
Secretary of State

HAVA Update

Planning and implementing the Help America Vote Act of 2002 (HAVA) continues to create a lot of activity and interest among election officers and the public. HAVA consists of many mini-projects that all must be coordinated into a single, massive reorganization of the process of conducting elections. Besides the efforts to pass state legislation and create new training programs (see articles elsewhere in this newsletter), the following topics represent major initiatives for 2004 and 2006.

Polling Place Accessibility: The SOS office, the Kansas Commission on Disability Concerns and the Kansas Advocacy and Protective Services worked together to produce a polling place accessibility survey. On December 21, 2003, the SOS sent the surveys to all 105 counties in Kansas. The surveys were due back to the SOS on February 28, 2004. The purpose of the surveys is to determine what changes are necessary to make all polling places in Kansas accessible to persons with disabilities.

Many regional independent living resource centers donated their time and knowledge to help county election officers conduct the polling place surveys. Their expertise on issues facing persons with disabilities and their willingness to help the SOS office and the county election officers played a crucial role in conducting the surveys.

Counties will be allowed to apply for grant money to help with costs associated with polling place improvements. The SOS office hopes to make large purchases on state contracts to maximize the purchasing power of the available funds. Although the state of Kansas received grant money, it will not be nearly enough to address all the needs, so counties are also being encouraged to think of creative solutions to address polling place accessibility and minimize costs.

Everyone involved with the polling place accessibility project has worked hard to identify areas that need improvement, and they will work hard to make all polling places in Kansas accessible to all voters.

CVR RFP: On January 2, 2004, the SOS issued its Request for Proposal (RFP) for the Centralized Voter Registration System (CVR). The RFP was the result of months of work by the CVR work group. Vendor proposals were due to the SOS on March 2, 2003 at 2:00 p.m. The SOS's office is pleased that we received 10 proposals, some representing partnerships formed between multiple vendors.

The RFP evaluation committee, which is a subset of the work group, met on March 3, 2004 to discuss the process it will use to narrow the 10 proposals down to between three and five finalists. The plan is to name a single vendor in May, 2004. The RFP Evaluation Committee has a very important task to find the best solution at a reasonable cost for all 105 counties in Kansas.

Voting Equipment Work Group: A new work group is being appointed to study and make recommendations for the purchase of HAVA-compliant electronic voting equipment for each polling place that will allow voters with disabilities to vote without receiving assistance. This work group complements work groups that have already been working on the CVR project and the training and education programs. The voting equipment will not be deployed until 2006.

Funding: To date, Kansas has received its first \$5 million in federal HAVA money appropriated by Congress (Title 1 funds) and \$110,057 in grant money for polling place accessibility. Subsequent appropriations by Congress for Title 2 funding have been made, but states have not yet been informed as to the exact amount of their respective allocations.

It is estimated that Kansas' share of the first year's appropriation will be \$7.5 million, and the second year will be \$17,850,000. These sums are the portions of federal funding for which the state must provide a five percent match. The formula approved by the Kansas legislature is for the state to supply three percent and the counties to collectively supply two percent in matching funds.

HAVA Training Program Taking Shape

One of many new initiatives brought about by the Help America Vote Act of 2002 (HAVA) is improved training. Although training itself is not a new thing, under HAVA it will be more formalized, more consistent statewide, and directed from the state level.

Secretary of State Ron Thornburgh appoints work groups of county election officers to advise him on various aspects of HAVA: central voter registration database, voting machines, and training/education.

The training/education work group consists of the following individuals: Marilyn Chapman, Sedgwick County Election Commissioner; Anthony Fadale, State ADA Coordinator;

Harvey Foyle, ESU Professor in the Instructional Design and Technology Department; Diane Glass, Director of Adult Education for the KS Board of Regents; Keith Lawing, WSU Director of Education for KS County Clerks and Election Officials Association; Stacia Long, Seward County Clerk; Lori Martin, Chautauqua County Clerk; Susan Meng, McPherson County Clerk; Terry Miller, Cheyenne County Clerk; Linda Scheer, Leavenworth County Clerk; Connie Schmidt, Johnson County Election Commissioner; and Kim Strunk, SRS Council on Developmental Disabilities

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2004 Legislation

This is a list of bills being considered in the 2004 legislative session that have impact on state and county election officers in Kansas. Much of this information is available on the legislature's web site at www.kslegislature.org.

Senate Bills

SB 479—Proposed by the SOS, this bill would put Kansas laws into compliance with the Help America Vote Act of 2002 (HAVA).

SB 491—Would make it a crime to (1) vote if a person is not legally present in the US, or (2) knowingly register voters who are not qualified to vote.

SB 502—Would allow a precinct committee person to designate a proxy to vote in his/her place in party district conventions held to fill vacancies in elected positions if the committee person is a legislator and the legislature is in session at the time of the party convention.

House Bills

Substitute for HB 2049—Elections may be held to create district attorney offices to replace county attorneys in judicial districts if the county commissions in all counties adopt resolutions or if the voters file a petition with the SOS requesting the election.

HB 2520—Would allow a candidate to sign his/her campaign finance report in lieu of the treasurer.

HB 2589—Would allow a candidate, party or committee the option of filing campaign finance reports electronically with the SOS and, where applicable, the CEO.

HB 2606—Proposed by the SOS, this bill would allow official county election abstracts to be filed with the SOS electronically through a secure electronic filing system.

HB 2619—Proposed by the SOS, this advance voting bill would do 2 things: (1) require the nature of the sickness/disability/condition of illiteracy to be written on the affidavit of assistance if a voter receives assistance from another person in casting an advance ballot, and (2) require the CEO to check signatures on all returned mailed advance ballots.

HB 2629—Would move the date of the presidential preference primary to the third Tuesday in January of presidential election years beginning in 2008.

HB 2640—Proposed by the KCCEOA, this bill would reduce the number of spring primaries by raising the number of candidates forcing a primary from "more than 2" to "more than 3."

HB 2641—Proposed by the KCCEOA, this bill would define "taxpayer" in drainage districts.

HB 2642—Proposed by the KCCEOA, this bill would move to 35 days before the election, which is the date the CEO must send a copy of the newspaper publication notice to the county party chairs for ballot inspection.

HB 2643—Proposed by the KCCEOA, this bill would eliminate ballot rotation in 2nd class cities and local school district elections.

HB 2644—Proposed by the KCCEOA, this bill would say that in mail ballot elections, the CEO would not mail ballots to registered voters listed on the inactive list. "Inactive" is defined, according to NVRA and state law, as a person for whom the CEO has received evidence that they have moved out of the county, a confirmation notice has been mailed, and the voter has not yet responded or voted. If an inactive voter is not mailed a ballot in a mail ballot election and believes he/she is registered to vote in that election, the voter can request a replacement ballot.

HB 2773—Would authorize the county commission to disorganize a township or consolidate it with an adjacent township if the county clerk certifies that the township has no residents or if a township office is vacant because there were no candidates for two consecutive elections.

HB 2793—Would allow a drainage district to raise tax levies only after adopting a resolution and submitting the question to an election. The election would be held according to general bond law.

HB 2811—Would mean that municipal judges are elected in spring elections rather than appointed.

HCR 5005—If passed by both houses of the legislature, this resolution would urge the US Congress to amend NVRA to allow voters' names to be removed from the voter registration list if they miss three elections.

HCR 5031—If passed by a 2/3 vote of both houses of the legislature, this resolution would cause a statewide vote on a constitutional amendment to allow the legislature to limit the amount of tax increases between appraisals.

HCR 5032—If passed by a 2/3 vote of both houses of the legislature, this resolution would cause a statewide vote on a constitutional amendment to allow the legislature to limit the amount of property valuation increases on persons 65 years old.

Voting

From page 2

security task force of seven county election officers and several members of his staff to adopt a security policy that he intends to recommend for adoption by all counties. The policy will be finalized in late spring, 2004.

The message to the voting public is that we should not be alarmed. We should be concerned about security, as always, but we should recognize that the voting systems in use have been extensively tested and certified and used in many elections across the nation. We in the election community cannot suddenly decertify or discontinue systems that have a proven track record because some critics cite the possibility of someone, somewhere mischievously attempting to manipulate election results. We intend to take a measured approach to the purchase and deployment of new equipment, considering security concerns as one of many criteria affecting the ultimate decisions made.

Election

From page 1

New Laws

Several laws that passed in 2003 are in effect for the first time this election season. At the time of this writing, it is unknown what new election laws will be passed in 2004. At minimum there will be a HAVA law passed, the specific outcome of which is to be determined.

Some of the new laws from 2003 already in effect are as follows:

1. Replacement advance ballots cast in the election office and at the polling place on Election Day are provisional. This is to prevent double voting.

2. Counting partial provisional ballots. If a voter casts a ballot in the wrong precinct or receives the wrong ballot for some reason, the canvassers are required to count whatever races or questions are common among the ballots in the two precincts

(the precinct where the voter is actually registered and the precinct whose ballot the voter voted).

3. City annexation deadline date before the election. The date by which city annexations have to be completed to be in effect for the ensuing election was changed from 30 days before the election to 60 days before the election.

4. Special write-in boards. The county election officer is authorized to appoint a special bipartisan write-in board to search for write-in votes if the board conducting the original canvass failed to tally and/or report write-in votes. The special board is not authorized to perform other functions with the sealed ballots other than searching for write-ins.

No Constitutional Amendments

As of this writing, no concurrent resolutions have been passed by the legislature creating statewide elections on proposed amendments to the Kansas Constitution. However, this could still change in the 2004 session.

Training

From page 4

The training and education plan consists of three parts:

1. County election officer training, to be conducted at the KCCEOA convention in May, 2004 and in subsequent years.

2. Election board worker training to be conducted by each county election officer in his or her own county using curriculum developed by the SOS and the work group.

3. Voter education, consisting of a public relations campaign designed by the SOS communications staff.

The county election officer training, to be held May 12 – 13 at the KCCEOA convention at the Wichita Marriott, will be the first statewide CEO training under HAVA. It will focus on the changes brought about in the election procedure by HAVA and what aspects of election administration to concentrate on in 2004.

At present, the eight-hour curriculum is organized into three workshops:

Workshop 1 — HAVA Overview and Impact on CEOs

1 hour

Workshop 1 is being conducted by the SOS office. It will cover changes in voting procedures, accessibility issues for voters with disabilities, canvassing ballots, and HAVA funding.

Workshop 2 — Voting Procedures to Comply with HAVA

3 hours

Workshop 2 is being conducted jointly by the SOS office, CEOs and experts on accessibility issues. It will cover voting procedures for CEOs and election boards and polling place accessibility from the county perspective.

Workshop 3 — Preparing for an Election to Comply with HAVA

4 hours

Workshop 3 is being conducted by CEOs with assistance from others. It will cover pre-election preparations, recruiting and training election boards, supplying and equipping polling places, and the roles of county and precinct election officers.

Attendance at the CEO training is mandatory as a condition for receiving funding and equipment under HAVA. One or two makeup sessions are being planned for late May or June for those unable to attend the KCCEOA conference.